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2191

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,955

Applicant(s)

WEISMAN ET AL.

Examiner

Matthew A. Dickeson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is responsive to amendment filed on 5/11/2005. Amended claims 1-21 were presented for examination, remain pending in this application, and were considered by the examiner. Claims 22-28 were formally withdrawn from consideration in this application.

#### ***Response to Amendment***

2. The amendments to the specification, see pp. 2-3 of applicants' amendment, filed 4/11/2005, are acceptable; accordingly, the objections previously made to the specification and to the drawings are withdrawn.

3. The amendments to claims 1, 6, 11, and 20, see pp. 2-6 of applicants' amendment, filed 5/11/2005, are acceptable to overcome the rejections previously made under 35 U.S.C. § 112, second paragraph, of these claims; accordingly, the rejections made to these claims are withdrawn.

#### ***Response to Arguments***

4. Applicants' arguments, see p. 9, filed 4/11/2005, with respect to the rejection(s) of claim(s) 3, 10, and 21 under 35 U.S.C. § 112, second paragraph have been fully considered and are persuasive. Therefore, these rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of "Netscape SmartDownload (v1.1)" (reference numeral X, cited in the previous Office Action), under 35 U.S.C. 103(a) as obvious.

In view of applicants' response, the terms "about" and "around" used in claims 3, 10, and 21 are no longer held to be indefinite, but broad limitations. In view of MPEP

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2173.05(b), in such instances the examiner may apply prior art within the range for what such a relative term would convey to one of ordinary skill in the art. The examiner notes that the reasoning stated in the rejections previously made under 35 U.S.C. § 112, second paragraph of these claims regarding the range conveyed by these terms is not addressed in applicants' response; therefore, this reasoning is assumed to be valid in view of applicants' response, and is applied in the understated grounds of rejection.

5. Applicants' arguments, see pp. 9-10, filed 4/11/2005, with respect to the rejection(s) of claim(s) 1, 4, and 5 under 35 U.S.C. § 102(e) have been fully considered but are not persuasive.

With respect to claim 1, Chanos et al. ('507) teach an advertising solution in which advertising content is submitted to the consumer's (*end user's*) computer based on the consumer's requested services (see Par. 0038), which reads in part "By allowing the consumer to authorize or subscribe to various request services for a particular product or service, the marketing system advantageously matches advertisers [and implicitly, advertising content provided by those advertisers, e.g. feature-rich advertisements, as described in Par. 0034] to those consumers most interested in the advertisers' products or services." This authorization or subscription by the consumer constitutes a selection of content desired by the consumer; thus, the consumer can and does select the feature-rich advertisement content that is presented to the consumer. Chanos et al. ('507) discuss some examples of this mechanism in Par. 0044, as filtering desired content by topic and subtopic; as the consumer narrows the filtering constraints, the content displayable in the feature-rich advertisement is drawn from a smaller pool of

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available content, based on the consumer's filtering constraints. With sufficiently narrowed constraints, the marketing system would be able to provide only a single advertisement to the consumer; thus, again, the consumer is able to select the feature-rich advertisement content that is presented to the consumer.

6. Applicants' arguments, see pp. 10-12, filed 4/11/2005, with respect to the rejection(s) of claim(s) 2, 6-9, and 11-20 under 35 U.S.C. § 103(a) have been fully considered but are not persuasive.

With respect to claim 6, Chanos et al. ('507) teach the selection by a user at a client computer of the first software, as discussed above with respect to claim 1.

With respect to claim 11, applicant is invited to review the reasoning stated in the rejection of claim 11 in the previous Office Action, which states that Figs. 1-2, 8-9 and related text disclose a client computer having a web browser, configured to display the feature rich advertisement (first stage software) upon loading the web page content (second downloadable software) of the host web site. Where the consumer (*user at the client computer*) selects a web page on a server computer to be viewed in the consumer's web browser, as through clicking a hyperlink found on another web page on the same server computer, the consumer is selecting the second downloadable software from a web page of the second server computer presented in the web browser.

With respect to claim 16, Chanos et al. ('507) teach the selection by a user at a client computer of the first software, as discussed above with respect to claim 1.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Chanos et al (20,020,120,507).

Referring to claim 1, Chanos et al. ('507) disclose a method for providing feature rich advertisements including consumer request information. The method of Chanos et al. ('507) comprises:

*"selecting an application software from a first web site coupled to a network, the application software being selected by a user at a client computer coupled to the network"* (see Figs. 1-2 and related text, e.g. Par. 0038, which states "By allowing the consumer to authorize or subscribe to various request services (*being selected by a user at a client computer coupled to the network*) for a particular product or service, the marketing system advantageously matches advertisers [and implicitly, advertising content provided by those advertisers, e.g. feature-rich advertisements, as described in Par. 0034] to those consumers most interested in the advertisers' products or services", and Par. 0062, I. 1-8, which states "Fig. 2 illustrates a flow chart of ... delivery of request

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based consumer information ... the marketing system sends the consumer one or more electronic documents having one or more filtering mechanisms ...")

*"downloading a packaging file on the client computer, the packaging file including the selected application software and a first stage software, the first stage software including instructions for downloading another application software from a second web site coupled to the network"* (see Fig. 2 and related text, e.g. Par. 0014, l. 1-5, which reads "... a feature rich advertisement (*a packaging file including the selected application software*) ... provides consumers with a mechanism for finding, requesting, or authorizing the sending of additional information (*and a ... first stage software ... including instructions for downloading another application software from a second web site...*) related to the products or services advertised.")

*"accepting the other application software for download from the second web site to the client computer"* (see Fig. 2 and related text, e.g. Par. 0014, l. 10-16, which states "The consumer can also request additional information be directed toward his or her browser, including, for example, ... additional information on promotional offerings, products or services from the provider of the banner advertisement, the advertiser, a partnering company of the same, or the like." The exemplary sources mentioned in the reference from which the consumer can have additional information directed to his or her web browser would inherently deliver this information from web servers other than the web server (*from the second web site*) delivering the content of the advertisement and selection mechanism.)

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*“running the first stage software”* (see Fig. 2 and related text, e.g. Par. 0014, l. 5-11, which reads “For example, the advertisement can allow a consumer to request an email (*running the first stage software*) ... additionally, the consumer can request an email be forwarded ... The consumer can also request additional information be directed toward his or her browser ...”)

*“downloading the other application software onto the client computer”* (see Fig. 2 and related text, e.g. Par. 0014, l. 10-16, which states “The consumer can also request additional information be directed toward his or her browser, (*downloading ... onto the client computer*) including, for example, ... [different exemplary categories of information]”)

Chanos et al ('507) disclose the use of electronic documents comprising applets in the subscription mechanism (see Par. 0066, l. 5-18). The reference also indicates that one of ordinary skill in the art would be familiar with the capabilities inherent in the use of applets (see Fig. 5, 8-9 and related text, e.g. Par. 0086 l. 11-22, Par. 0109 – Par. 0110, Par. 0112 l. 3-10, Par. 0118) to display content to the user at all stages of the client/server interaction process. Therefore, the use of applets is implicit and inherent at all stages of the invention disclosed by Chanos et al. ('507).

With respect to claim 4, Chanos et al. ('507) state that the communications network integral to the disclosed invention comprises the Internet (see Fig. 1 and related text, e.g. Par. 0050, l. 1-5).

Per claim 5, Chanos et al. ('507) discuss the consumer's ability to request information (using the first stage software) from sources including offers “from the



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provider of the banner advertisement, the advertiser, a partnering company of the same, or the like" (e.g., see Par. 0014, l. 10-16). The reference also embodies multiple teachings regarding the use of advertising material submitted by a plurality of advertising entities, each separate from the entity providing the advertising content to the consumer (see Figs. 8-9 and related text, e.g. Par. 0038, and Par. 0110, l. 7-16). These teachings read on the limitation of applicants' claim 5, which is directed to promotion of distribution of software between web site operators.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under

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37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 2, 6-9 and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chanos et al. ('507) in view of Bodin et al. (6,061,733).

As to claim 2, Chanos et al. ('507) teach the incorporated limitations of claim 1 as shown above, but the reference does not teach a method of dividing any application software into chunks, nor downloading those chunks sequentially.

Bodin et al. ('733) describe a method by which a large file may be passed from server to client as a collection of smaller files (see Figs. 2-5 and related text). The reference discusses as prior art the method of "splitting the large file into multiple smaller files". This results in a better chance of a given download being successful." (see Col. 1, l. 48-51) The particular method of the disclosed invention dynamically divides the downloadable file into portions based on the user selected portion size (e.g., see Col. 4, l. 5-11), without dividing the original file on the server, while the user downloads the portions. It is noted that both of these teachings involve dividing the file into separate downloadable portions, and downloading those portions one at a time until all are downloaded.

It would have been obvious to one of ordinary skill in the pertinent art at the time the claimed invention was made by applicant to modify the method of Chanos et al.

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('507) to download additional content to the client machine using the teachings and motivation set forth in Bodin et al. ('733).

In regard to claim 6, Chanos et al. ('507) provide a method for obtaining software over a network. The method of Chanos et al. ('507) comprises:

*"selecting a first software from a first site, the first software being selected by a user at a client computer"* (see Figs. 1-2 and related text, e.g. Par. 0038, which states "By allowing the consumer to authorize or subscribe ... the marketing system advantageously matches advertisers [advertising content, as described in Par. 0034] to those consumers most interested in the advertisers' [advertising content]", and Par. 0062, l. 1-8, which states "Fig. 2 illustrates a flow chart of ... delivery of request based consumer information ...")

*"downloading the selected first software on the client computer"* (see Fig. 2 and related text, e.g. Par. 0062, l. 1-8, which states "... the marketing system sends the consumer one or more electronic documents having one or more filtering mechanisms ...")

*"downloading a second software to the client computer in response to the selection of the first software by the user at the client computer, the second software including instructions for initiating a download of a third software from a site other than the first site"* (see Fig. 10 and related text, e.g. Par. 0121, l. 5-12, which reads "the requesting process begins ... when the consumer computing device loads an electronic document (first software) ... the web page includes the foregoing feature rich advertisement (relatively small second software ... including instructions for initiating a

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*download ...)*, and Par. 0125, l. 14-21, which reads “the marketing system can redirect one or more windows in the browser of the consumer computing device ... to online information (a *third software*) provided by, for example, the vendor of the products (a *site other than the first site*) ...” The content of the initial web page and the product vendor information loaded to the consumer’s computer may include any type of content, including other applets than the feature rich advertisement, and can therefore be construed to include software.)

Chanos et al. ('507) do not teach a method of downloading software to the client as a series of individually downloadable portions.

Bodin et al. ('733) describe a method by which a large file may be passed from server to client as a collection of smaller files (see Figs. 2-5 and related text), as discussed above with respect to claim 2. The method of Bodin et al. ('733) comprises:

*“downloading the third software to the client computer as a series of individually downloadable portions”* (The reference discusses as prior art the method of “splitting the large file into multiple smaller files. This results in a better chance of a given download being successful.” (see Col. 1, l. 48-51) The particular method of the disclosed invention dynamically divides the downloadable file into portions based on the user selected portion size (e.g., see Col. 4, l. 5-11), without dividing the original file on the server, while the user downloads the portions.)

It would have been obvious to one of ordinary skill in the pertinent art at the time the claimed invention was made by applicant to modify the method of Chanos et al.

('507) to download additional content in portions to the client machine using the teachings and motivation set forth in Bodin et al. ('733).

Addressing claim 7, the rejection of claim 6 is incorporated. Chanos et al. ('507) also teach that the feature rich advertisement (*second software*) may direct the user's browser to the website of the online marketing system (*identifying the third site as a source ...*) to download additional content (*third software*) (see Par. 0126, l. 1-6). The reference also discloses the use of one or more databases by the marketing system (see Fig. 1 and related text, e.g. Par. 0051, l. 3-8) to store product information for display to the user, and that a skilled artisan will know that the databases may be in different locations or use data mirrors (*third software is located on a second site that is linked to a third site*), among other possible embodiments (e.g., see Par. 0060, l. 3-12). These teachings read on the limitations of applicants' claim 7.

With respect to claim 8, the rejection of claim 6 is incorporated. Chanos et al. ('507) also state that the communications network integral to the disclosed invention comprises the Internet (see Fig. 1 and related text, e.g. Par. 0050, l. 1-5).

As to claim 9, the rejection of claim 6 is incorporated. Chanos et al. ('507) also disclose that the marketing system may provide a subscription mechanism to the user (see Figs. 1-2 and related text, e.g. Par. 0066, l. 6-18), comprising applets (*application software*).

Referring to claim 11, Chanos et al. ('507) disclose a system for distributing software. The system of Chanos et al. ('507) comprises:

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*“a first server computer having a set of web pages and a first downloadable software”* (see Figs. 1-2 and related text, e.g. Par. 0051, l. 3-8, and Par. 0066, l. 6-18, which describe a subscription mechanism comprising applets, which may be transmitted to the consumer computing device, the subscription mechanism provided by a marketing system residing on a portal server.)

*“a second server computer having another set of web pages, a second downloadable software, and a first stage software”* (see Figs. 8-9 and related text, e.g. Par. 0108 – 0110, which describes a host web site, CNN.com, having various electronic content (*second downloadable software*) and a feature rich advertisement (*relatively small first stage software*). The content of the advertisement and the host web site may include applets, as applied above to claim 1.)

*“a network coupling the first server computer, the second server computer, and the client computer”* (see Figs. 1, 8-9 and related text, e.g. Par. 0050, l. 1-4, which describes a communications network coupling the client to external content providers (*second server computer*) and to the portal server system (*first server computer*) of the marketing system.)

*“a client computer having a web browser, the client computer being configured to receive the first stage software by downloading the second downloadable software in response to a selection, by a user at the client computer, of the second downloadable software from a web page of the second server computer presented in the web browser, the client computer being configured to receive the first downloadable software ... by following instructions included in the first stage software”* (see Figs. 1-2, 8-10 and

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related text, which disclose a client computer having a web browser (see Fig. 1 and related text), configured to display the feature rich advertisement (*first stage software*) upon loading the web page content (*second downloadable software*) of the host web site (see Figs. 8-10 and related text), the feature rich advertisement configured to redirect the client's web browser to the portal server of the marketing system to receive the subscription mechanism (*receive the first downloadable software ... by following instructions included in the first stage software*) and additional content (see Fig. 2 and related text) as discussed above. The client can select the web page to be displayed, and thus the content (*second downloadable software*) to be loaded, by clicking a hyperlink on another web page of the host web site (see Figs. 8-9 and related text) that directs the client's browser to the web page.)

Chanos et al. ('507) do not teach downloading the first software in chunks according to instructions in the first stage software.

Bodin et al. ('733) describe a system in which a large file may be passed from server to client as a collection of smaller files (see Figs. 2-5 and related text), as discussed above with respect to claim 2. The system of Bodin et al. ('733) comprises:

"[configuring the client computer to] *receive the first downloadable software in chunks ...*" (The reference discusses as prior art "splitting the large file into multiple smaller files. This results in a better chance of a given download being successful." (see Col. 1, l. 48-51) The disclosed system dynamically divides the downloadable file into portions based on the user selected portion size (e.g., see Col. 4, l. 5-11), without dividing the original file on the server, while the user downloads the portions.)

It would have been obvious to one of ordinary skill in the pertinent art at the time the claimed invention was made by applicant to modify the system of Chanos et al. ('507) to download the subscription mechanism and additional content in portions to the client machine using the teachings and motivation set forth in Bodin et al. ('733).

With respect to claim 12, the rejection of claim 11 is incorporated. Chanos et al. ('507) also state that the communications network integral to the disclosed invention comprises the Internet (see Fig. 1 and related text, e.g. Par. 0050, l. 1-5).

Regarding claim 13, the rejection of claim 11 is incorporated. Chanos et al. ('507) also disclose a feature rich advertisement which provides a mechanism to the user for obtaining additional content related to the products or services advertised (see Fig. 2 and related text, e.g. Par. 0014, l. 1-5). The combination of the advertisement and the filtering mechanism (*second downloadable software and first stage software*) implies bundling the content and the mechanism together as one downloadable, displayable unit. This teaching reads on the limitation of applicants' claim 13.

With respect to claim 14, the rejection of claim 11 is incorporated. Chanos et al. ('507) also state that the code generating the content of the ad space "can include links that pull content from web servers ... while the website provider [can be another entity] (*the second downloadable software and the first stage software are in separate files*)."

(see Figs. 8-9 and related text, e.g. Par. 0110, l. 7-14) Drawing content (*downloadable software*) from web servers other than the website provider implies that the advertising content can be in separate files from the content of the website provider. This teaching anticipates the limitation of applicants' claim 14.



As to claim 15, the rejection of claim 11 is incorporated. Chanos et al. ('507) also teach that the feature rich advertisement (*first stage software*) may direct the user's browser to the website of the online marketing system (*identifies a third server computer as a source ...*) to download the subscription mechanism and additional content (*first software*) (see Par. 0126, l. 1-6). The reference also discloses the use of one or more databases by the marketing system (see Fig. 1 and related text, e.g. Par. 0051, l. 3-8) to store product information for display to the user, and that a skilled artisan will know that the databases may be in different locations or use data mirrors (*the third server computer is linked to the first server computer*), among other possible embodiments (e.g., see Par. 0060, l. 3-12). These teachings read on the limitations of applicants' claim 15.

In reference to claim 16, Chanos et al. ('507) provide a method for distributing software over a network. The method of Chanos et al. ('507) comprises:

*"bundling a first stage software with a first application software available for download from a first server computer"* (see Fig. 2 and related text, e.g. Par. 0014, l. 1-5, which reads "... a feature rich advertisement (*a first application software available for download ...*) ... provides consumers with a mechanism (*a first stage software*) for finding, requesting, or authorizing the sending of additional information related to the products or services advertised." The content of the advertisement and the filtering mechanism may include applets, as applied above to claim 1.)

*"storing a second application software on a second server computer, the second application software being offered to an end-user requesting to download the first*

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*application software*" (see Figs. 1-2, 8-10 and related text, e.g. Par. 0038, Par. 0051, I. 3-8, Par. 0066, I. 6-18, which describe a subscription mechanism comprising applets, provided by a marketing system residing on a portal server. The user receives an offer via the feature rich advertisement (*first application software*) to receive various product information or to subscribe to an information delivery service, facilitated by the subscription mechanism. The content of the feature rich advertisement can be selected through subscriptions or selections made by the user in the subscription mechanism.)

*"downloading the second application software ... to the end-user if the end-user agrees to download the second application software, the second application software being downloaded in accordance with instructions included in the first stage software"* (see Figs. 1-2, 8-10 and related text, e.g. Par. 0126, and Par. 0066, I. 7-18, which describe the feature rich advertisement's filtering mechanism redirecting the user's web browser to the portal server of the marketing system to receive the subscription mechanism (*downloading the second application software ... in accordance with instructions included in the first stage software*) and additional content when the user elects to.)

Chanos et al. ('507) do not teach downloading the second application software in chunks according to instructions in the first stage software.

Bodin et al. ('733) describe a system in which a large file may be passed from server to client as a collection of smaller files (see Figs. 2-5 and related text), as discussed above with respect to claim 2. The system of Bodin et al. ('733) comprises:

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“... *downloading the second application software in chunks* ...” (The reference discusses as prior art “splitting the large file into multiple smaller files. This results in a better chance of a given download being successful.” (see Col. 1, l. 48-51) The disclosed system dynamically divides the downloadable file into portions based on the user selected portion size (e.g., see Col. 4, l. 5-11), without dividing the original file on the server, while the user downloads the portions.)

It would have been obvious to one of ordinary skill in the pertinent art at the time the claimed invention was made by applicant to modify the method of Chanos et al. ('507) to download the subscription mechanism and additional content in portions to the client machine using the teachings and motivation set forth in Bodin et al. ('733).

With respect to claim 17, the rejection of claim 16 is incorporated. Chanos et al. ('507) also state that the communications network integral to the disclosed invention comprises the Internet (see Fig. 1 and related text, e.g. Par. 0050, l. 1-5).

In regard to claim 18, the rejection of claim 16 is incorporated. Chanos et al. ('507) also teach that the filtering mechanism is dynamically updated with new filters at the direction of the marketing system, based on the user's previous filter selections (see Figs. 2-4 and related text, e.g. Par. 0065 and Par. 0069), before transmitting the subscription mechanism (*second application software*) to the user. This process takes place both before the user has made a final product filtering selection, and when the user makes another product filtering selection after downloading and using the subscription mechanism in response to a previous filtering selection; each time, the

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filtering mechanism (*first stage software*) is updated. This teaching reads on the limitation of applicants' claim 18.

Addressing claim 19, Chanos et al. ('507) also provide an option for the feature rich advertisement's filtering mechanism to redirect the user's web browser to the portal server of the marketing system to receive the subscription mechanism and additional content (*offering a third application software ...*) from the web page of the marketing system when the user elects to.

However, the reference does not teach the method of downloading the third application software in chunks.

Bodin et al. ('733) describe a system in which a large file may be passed from server to client as a collection of smaller files (see Figs. 2-5 and related text), as discussed above with respect to claim 16.

It would have been further obvious to one of ordinary skill in the pertinent art at the time the claimed invention was made by applicant to modify the system of Chanos et al. ('507) to download the additional content of the marketing system's web page in portions to the client machine using the teachings and motivation set forth in Bodin et al. ('733).

As to claim 20, the rejection of claim 16 is incorporated. The size of the filtering mechanism (*first stage software*) of Chanos et al. ('507), being a program, would be inherently small in comparison to enriched media content presented in the feature rich advertisement (*downloadable software*), including image, animation, sound, and dynamic display files (see Par. 0110, I. 2-7).

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11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chanos et al. ('507) in view of Netscape SmartDownload (v1.1).

Referring to claim 3, the rejection of claim 1 is incorporated. However, Chanos et al. ('507) do not explicitly disclose a file size relating to the first stage software (*less than about 100Kbytes when compressed*).

Netscape SmartDownload (v1.1) is an exemplary form of software that is used to download another software to a client computer (*first stage software including instructions for downloading another application software from a second web site coupled to the network*), as described in SmartDownload FAQ: The size of Netscape SmartDownload (v1.1) is 127Kbytes, as stated on <[www.softlookup.com](http://www.softlookup.com)>.

As discussed in the previous Office Action, a 99.95 kilobyte compressed file, a 98 kilobyte compressed file, an 84 kilobyte compressed file, and a 70 kilobyte compressed file all have a size less than a 100 kilobyte compressed file; however, each is also "less than about 100 kilobytes", relative to a 10 byte compressed file. Even a 10 kilobyte compressed file, a factor of 1000 times greater than a 10 byte compressed file, is still relatively about the size of a 100 kilobyte compressed file, within a tolerance of a factor of 10. As the above file sizes are "about 100 kilobytes", a 100.05 kilobyte compressed file, a 102 kilobyte compressed file, an 116 kilobyte compressed file, and a 130 kilobyte compressed file are all greater than, but "about", the size of a 100 kilobyte compressed file. Absent any further definition from the specification or factual evidence to the contrary (not merely opinions), it is believed one of ordinary skill in the art would include 127 kilobytes within the bounds of "about 100Kbytes", and if not, such a minor variation

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is believed to have been obvious to one of ordinary skill in the art to make for purposes of selecting optimum values for a particular application without undue experimentation. One of ordinary skill in the art could, for example, select a different compression algorithm that would further reduce the size of the first stage software to be smaller than the size of Netscape SmartDownload (v1.1), e.g. by 30%.

It would have been obvious to one of ordinary skill in the pertinent art at the time the claimed invention was made by applicant that the subscription mechanism provided in the method of Chanos et al. ('507), usable to download additional content to the client's computer, could be made at least as small as the Netscape SmartDownload (v1.1) software, i.e., less than about 127 kilobytes when compressed.

12. Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chanos et al. ('507) in view of Bodin et al. (6,061,733), and further in view of Netscape SmartDownload (v1.1).

Referring to claim 10, the rejection of claim 6 is incorporated. However, neither Chanos et al. ('507) nor Bodin et al. ('733) explicitly disclose a file size relating to the first stage software (*less than around 100Kbytes when compressed*).

Netscape SmartDownload (v1.1) is an exemplary form of software that is used to download another software to a client computer, and is 127 kilobytes in size, as discussed above with respect to claim 3. Absent any further definition from the specification or factual evidence to the contrary (not merely opinions), it is believed one of ordinary skill in the art would include 127 kilobytes within the bounds of "around 100Kbytes", and if not, such a minor variation is believed to have been obvious to one

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of ordinary skill in the art to make for purposes of selecting optimum values for a particular application without undue experimentation, also as discussed above with respect to claim 3.

It would have been obvious to one of ordinary skill in the pertinent art at the time the claimed invention was made by applicant that the subscription mechanism provided in the method of Chanos et al. ('507), usable to download additional content to the client's computer, could be made at least as small as the Netscape SmartDownload (v1.1) software, i.e., less than around 127 kilobytes when compressed.

Referring to claim 21, the rejection of claim 20 is incorporated. However, neither Chanos et al. ('507) nor Bodin et al. ('733) explicitly disclose a file size relating to the first stage software (*less than about 100Kbytes when compressed*).

Netscape SmartDownload (v1.1) is an exemplary form of software that is used to download another software to a client computer, and is 127 kilobytes in size, as discussed above with respect to claim 3. Absent any further definition from the specification or factual evidence to the contrary (not merely opinions), it is believed one of ordinary skill in the art would include 127 kilobytes within the bounds of "about 100Kbytes", and if not, such a minor variation is believed to have been obvious to one of ordinary skill in the art to make for purposes of selecting optimum values for a particular application without undue experimentation, also as discussed above with respect to claim 3.

It would have been obvious to one of ordinary skill in the pertinent art at the time the claimed invention was made by applicant that the subscription mechanism provided

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in the method of Chanos et al. ('507), usable to download additional content to the client's computer, could be made at least as small as the Netscape SmartDownload (v1.1) software, i.e., less than around 127Kbytes when compressed.

***Conclusion***


13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew A. Dickeson whose telephone number is (571) 272-7219. The examiner can normally be reached on Monday thru Friday, 8:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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